

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0222

Adjusted Gross Income Tax

Fiscal Years Ended 06-30-93, 09-29-93, 09-28-94, and 09-27-95

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ISSUE(S)

I. **Adjusted Gross Income**— Add-back Property Taxes

Authority: IC 6-3-1-3.5(b)(3); 45 IAC 3.1-1-8; 45 IAC 3.1-1-9

Taxpayer protests the department's addback of property taxes that affects its Net Operating Loss Carry Forward.

STATEMENT OF FACTS

Taxpayer incorporated under the laws of Delaware files Indiana Corporate Income Tax Returns and is in the business of operating restaurants as a lessee.

I. **Adjusted Gross Income** – Add-back Property Taxes

DISCUSSION

Taxpayer states that the auditor added back the deduction from its federal return noted as other taxes, which affected its net operating loss carryovers. Taxpayer further states that the auditor's method was reasonable for the year ended 9/27/95, and not reasonable for the three months ended 9/29/93 and the year ended 6/30/93 because payroll taxes were not listed separately on these Federal income tax returns. Taxpayer further has provided an analysis of the audit adjustment and has calculated an add-back for real and personal property taxes.

The auditor has added back the taxes shown on taxpayer's Federal 1120 Return from Schedule 3. In a

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PAGE #2

letter dated April 14, 1999, the department asked for a breakdown of the line 17 taxes from the federal 1120 for a possible adjustment. The analyst gave the POA until the week of May 10, 1999 to provide a response and/or additional information. When no response was forthcoming, a hearing was scheduled for August 26, 1999 in order for the taxpayer to present additional evidence. No one appeared at the hearing.

No additional evidence has been presented to allow the department to make adjustments to the taxpayer's Net Operating Schedule.

FINDING

Taxpayer's protest is denied.

DW/RAW/MR 990809